



State of South Carolina
Office of Regulatory Staff

November 22, 2021

VIA ELECTRONIC FILING

Jocelyn G. Boyd, Esquire
Chief Clerk & Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

RE: Allowable Ex Parte on Joint Petition of DEC and DEP to Request the Commission to Hold a Joint Hearing with the North Carolina Utilities Commission to Develop Carbon Plan;
Docket No. 2021-349-E

Dear Ms. Boyd:

Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (collectively, "Duke Energy") provided an Allowable Ex Parte Communication Briefing ("Briefing") to the Public Service Commission of South Carolina ("Commission") on November 19, 2021. Pursuant to S.C. Code Ann. § 58-3-260(C)(6)(a)(iii):

each party, person, commissioner, and commission employee present, within forty-eight hours of the briefing, files a certification with the Executive Director of the Office of Regulatory Staff that no commitment, predetermination, or prediction of any commissioner's action as to any ultimate or penultimate issue or any commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any commissioner or commission employee as to any commission action or commission employee opinion or recommendation on any ultimate or penultimate issue.

Following the Briefing, ORS became aware that certain parties in attendance questioned whether the presenters violated the provisions of S.C. Code Ann. § 58-3-260(C)(6)(a)(iii) by making a request or recommendation regarding a course of action of the Commission and indicated that they would not be submitting a certified statement.

In considering this issue, the South Carolina Office of Regulatory Staff (“ORS”) has reviewed the above statute. ORS recognizes that the statute could be interpreted in a manner to prohibit presenters from requesting any commitment regarding any ultimate or penultimate issue and making any recommendation to the Commission as part of an allowable *ex parte* briefing. ORS believes that the intent of the statute is to prohibit:

- 1) persons from requesting:
 - a. a commitment, predetermination, or prediction of any commissioner’s action as to any ultimate or penultimate issue;
 - b. a commission employee’s opinion; or
 - c. a commission employee’s recommendation;
- 2) a commissioner or commissioner employee from giving any commitment, predetermination, or prediction on any ultimate or penultimate issue as to:
 - a. any commission action;
 - b. any commission employee opinion; or
 - c. any commission employee recommendation.

Subject to this interpretation, attached, please find the Allowable *Ex Parte* Communication Briefing Certified Statements of the ORS Staff Members who attended the Briefing.

Sincerely,



Nanette S. Edwards
Executive Director

**ALLOWABLE EX PARTE COMMUNICATION BRIEFING
CERTIFIED STATEMENT
(Attendee)**

THIS CERTIFICATION IS TO:

- BE SIGNED BY **EACH** BRIEFING ATTENDEE **EXCEPT** COMMISSIONERS AND PUBLIC SERVICE COMMISSION EMPLOYEES, AND
- BE FILED WITH THE OFFICE OF REGULATORY STAFF [1401 MAIN STREET, COLUMBIA, SOUTH CAROLINA 29201] **WITHIN FORTY-EIGHT HOURS** OF THIS BRIEFING.

Name: <i>Nanette Edwards</i>	Date of Meeting: November 19, 2021
Occupation:	<ul style="list-style-type: none"> ▪ Request by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for an Allowable Ex Parte Briefing ▪ (Docket No. 2021-349-E)
Attending on behalf of/for: ORS	Matter: JOINT PETITION OF DUKE ENERGY CAROLINAS, LLC AND DUKE ENERGY PROGRESS, LLC TO REQUEST THE COMMISSION HOLD A JOINT HEARING WITH THE NORTH CAROLINA UTILITIES COMMISSION TO DEVELOP CARBON PLAN

By signing this Certification, I certify that:

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2. I have accurately summarized the discussions occurring during the briefing in full either in the space below or on an attached sheet. If a sheet is attached, it is noted as being attached on the lines below. [§58-3-260(C)(6)(a)(ii)]

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3. I have attached copies of any written materials utilized, referenced, or distributed during the briefing. [§58-3-260(C)(6)(a)(ii)]

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This concludes my Certified Statement.

A handwritten signature in blue ink, appearing to read "Ash E. [unclear]", is written over a horizontal line.

Signature of Briefing Attendee

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Name: <i>Ben Mustian</i>	Date of Meeting: November 19, 2021
Occupation: <i>Attorney</i>	<ul style="list-style-type: none"> ▪ Request by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for an Allowable Ex Parte Briefing ▪ (Docket No. 2021-349-E)
Attending on behalf of/for: <i>SCORS</i>	Matter: JOINT PETITION OF DUKE ENERGY CAROLINAS, LLC AND DUKE ENERGY PROGRESS, LLC TO REQUEST THE COMMISSION HOLD A JOINT HEARING WITH THE NORTH CAROLINA UTILITIES COMMISSION TO DEVELOP CARBON PLAN

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Name: <i>Michael Seaman-Haynes</i>	Date of Meeting: November 19, 2021
Occupation: <i>Deputy Director, Energy Operations</i>	<ul style="list-style-type: none"> ▪ Request by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for an Allowable Ex Parte Briefing ▪ (Docket No. 2021-349-E)
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Name: <i>Donna Phaneuf</i>	Date of Meeting: November 19, 2021
Occupation: <i>Attorney</i>	<ul style="list-style-type: none"> ▪ Request by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for an Allowable Ex Parte Briefing ▪ (Docket No. 2021-349-E)
Attending on behalf of/for: <i>ORS</i>	Matter: JOINT PETITION OF DUKE ENERGY CAROLINAS, LLC AND DUKE ENERGY PROGRESS, LLC TO REQUEST THE COMMISSION HOLD A JOINT HEARING WITH THE NORTH CAROLINA UTILITIES COMMISSION TO DEVELOP CARBON PLAN

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Name: <i>Ryder Thompson</i>	Date of Meeting: November 19, 2021
Occupation: <i>Director - Utility Rates & Services</i>	<ul style="list-style-type: none"> ▪ Request by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for an Allowable Ex Parte Briefing ▪ (Docket No. 2021-349-E)
Attending on behalf of/for: <i>ORS</i>	Matter: JOINT PETITION OF DUKE ENERGY CAROLINAS, LLC AND DUKE ENERGY PROGRESS, LLC TO REQUEST THE COMMISSION HOLD A JOINT HEARING WITH THE NORTH CAROLINA UTILITIES COMMISSION TO DEVELOP CARBON PLAN

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Name: <i>ROBERT LAWYER</i>	Date of Meeting: November 19, 2021
Occupation: <i>DEPUTY DIRECTOR</i>	<ul style="list-style-type: none"> ▪ Request by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for an Allowable Ex Parte Briefing ▪ (Docket No. 2021-349-E)
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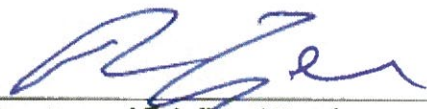
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Name: <i>Kristy Hekm</i>	Date of Meeting: November 19, 2021
Occupation: <i>Litigation Specialist</i>	<ul style="list-style-type: none"> ▪ Request by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for an Allowable Ex Parte Briefing ▪ (Docket No. 2021-349-E)
Attending on behalf of/for: <i>ORS</i>	Matter: JOINT PETITION OF DUKE ENERGY CAROLINAS, LLC AND DUKE ENERGY PROGRESS, LLC TO REQUEST THE COMMISSION HOLD A JOINT HEARING WITH THE NORTH CAROLINA UTILITIES COMMISSION TO DEVELOP CARBON PLAN

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Name: ANTHONY SANDONATO	Date of Meeting: November 19, 2021
Occupation: SENIOR REGULATORY MANAGER	<ul style="list-style-type: none"> ▪ Request by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for an Allowable Ex Parte Briefing ▪ (Docket No. 2021-349-E)
Attending on behalf of/for: SC OFFICE OF REGULATORY STAFF	Matter: JOINT PETITION OF DUKE ENERGY CAROLINAS, LLC AND DUKE ENERGY PROGRESS, LLC TO REQUEST THE COMMISSION HOLD A JOINT HEARING WITH THE NORTH CAROLINA UTILITIES COMMISSION TO DEVELOP CARBON PLAN

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Name: <i>Gutchen Pool</i>	Date of Meeting: November 19, 2021
Occupation: <i>Regulatory Analyst</i>	<ul style="list-style-type: none"> ▪ Request by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for an Allowable Ex Parte Briefing ▪ (Docket No. 2021-349-E)
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*Signed by Kusty Hiten on behalf of Gretchen Pool with
Ms. Pool's expressed
consent.*

Gretchen Pool
Signature of Briefing Attendee

11-22-2021

Date: November 19, 2021

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Name: <i>Brittany Ward</i>	Date of Meeting: November 19, 2021
Occupation: <i>staff for SCORS</i>	<ul style="list-style-type: none"> ▪ Request by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for an Allowable Ex Parte Briefing ▪ (Docket No. 2021-349-E)
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